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# STATE FOOD AND FOOD FREEDOM LEGISLATION

LEGISLATIVE SESSIONS 2018 AND 2019



# NATIONAL CONFERENCE OF STATE LEGISLATURES

- Bipartisan organization, funded by state legislatures
- Serves the **7,383 legislators** and **30,000+ legislative staff** of the nation's 50 states, its commonwealths and territories (and **Scotland**)
- Covers every topic of state policy
  - State fiscal policy (appropriations and taxation)
  - State legislative management
- Activities:
  - ▶ **Research and information** on topics of interest to the states
  - ▶ **Technical assistance** and **training**
  - ▶ Opportunities for policymakers to exchange ideas
  - ▶ **Lobbying** at the federal level for **states' interests**

## COUNTY DEMOCRATIC HOT DISH FUNDRAISER, MINNESOTA

Former Rep. Al Juhnke, MN



“If the county health agency is going to close down the county Democratic Hot Dish Charity event, they better be prepared to respond.”

Introduced the ‘Hot Dish’ bill, which exempted state/county food safety oversight from charity events.

“I’m a legislator. If they don’t want to take my calls, I’ll file legislation.”



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# TEXAS COOKIE FREEDOM BILL

Senator Jane Nelson, TX



“A woman started a small cookie business, selling cookies at the Capitol. She had no permit or license, but I didn’t want to see her go out of business.”

Introduced a ‘Cottage Foods’ bill, which was an update of the previous session’s ‘Cookie Freedom’ bill.

“Rather than providing a blanket exemption, I want small food producers to get training from the state on how to prepare food safely.”

# MICHIGAN CUPCAKE BILL

Senator John Proos, MI



“A couple of single moms started a cupcake business, selling at farmers’ markets. They couldn’t afford the cost to be licensed and permitted, so the state wanted to shut them down.”

Introduced the ‘Cupcake’ bill, which allowed for small, ‘cottage food’ producers to operate without a license.

“Once I filed the bill, the state health department worked with me to identify non-hazardous foods that could be exempted from food safety oversight.”



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## WYOMING FOOD FREEDOM LAWS

“This act (Chapters 56 & 111) is a home-run. Wyoming's local food options have exploded and we still have had 0 foodborne illness outbreaks due to this Act passing into law.”

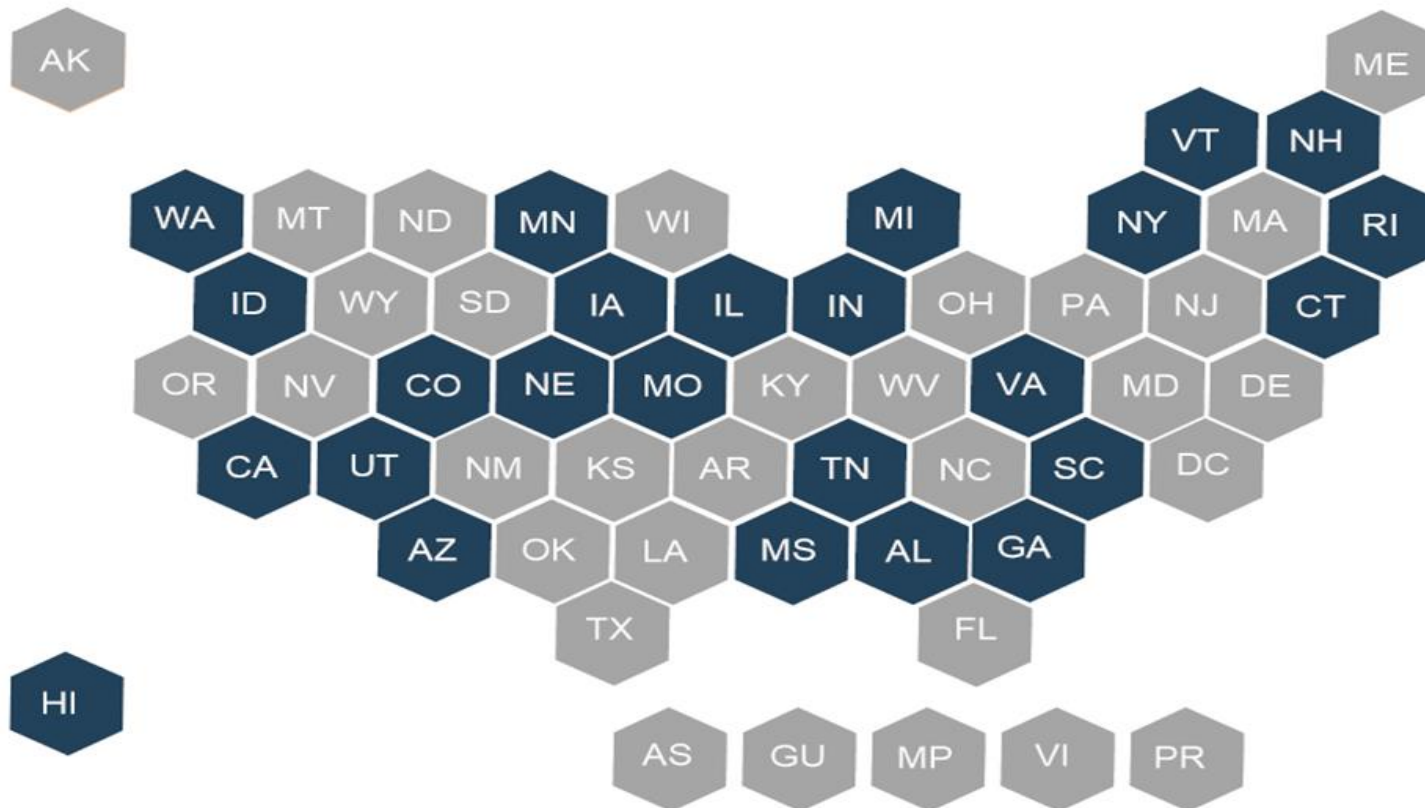
Wyoming Rep. Tyler Lindholm



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# FOOD SAFETY LEGISLATION IN 2018

## U.S. States with Enacted Food Safety Legislation 2018



- 756 bills relating to Food Safety
- Foremost Issues
  - Food Donation – 72 bills
  - Food Service in Schools – 57 bills
  - Restaurants – 57 bills
  - Milk or Raw Milk – 45 bills
  - Cottage Foods – 48 bills
  - GMO – 18 bills

# ENACTED FOOD SAFETY LAWS 2018

- **AL S 258** requires commercial food service establishments to secure grease trap covers to prevent accidental access
- **CT H 5163** determines that the state food code does not apply to residential care homes
- **IA S 2390** specifies food establishments exempted from the state's food code, mostly ones that sell foods that do not require time or temperature controls
- **IL S 1697** allows an employer to require an employee to follow food sanitation requirements even if the practice violates his or her religion
- **MN S 3326** requires any person conducting food product sampling or food product demonstrations to meet the same food safety and equipment standards that are required of a special event food stand
- **NE L 134** amends the Pure Food Act by inserting express authority for the state to enter regulated business premises for the purpose of inspection, to hold food for inspection and determination regarding compliance with the Pure Food Act, to inspect food transported through the state & requirements to obtain an inspection warrant
- **VA H 286** allows for dogs in food premises, but not at food manufacturing facilities





# FOOD SAFETY MODERNIZATION ACT – FOOD SAFETY PRODUCE RULE

Allowing agencies to develop rules and enforce standards to meet federal produce safety requirements

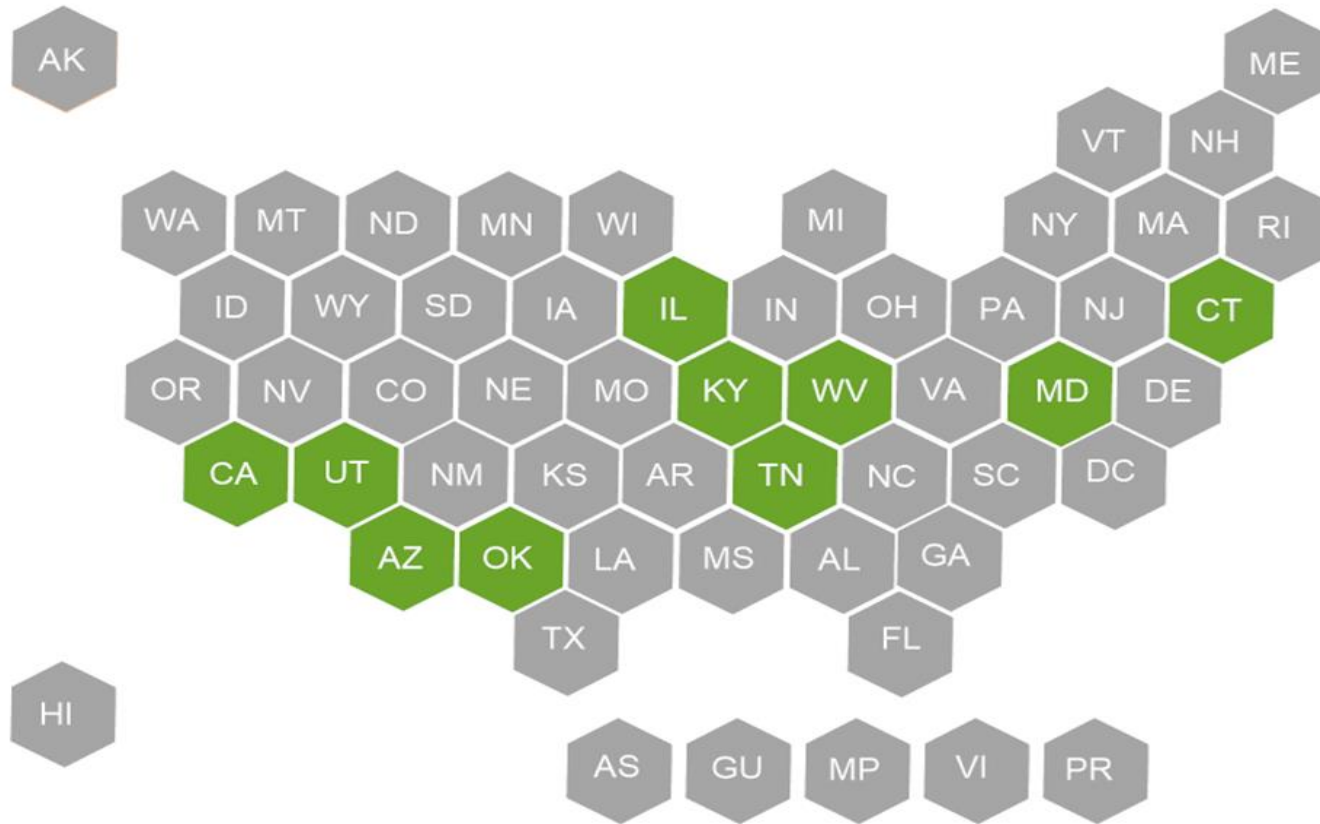
- AZ S 1063
- CA A 2524
- GA H 176
- HI H 453
- ID H 537 – Dept of Ag Program
- IL H 3855 – Produce Safety Trust Fund
- IN S 331 – Produce Farm Food Safety
- MI H 4811 – Michigan Food Law
- MS S 2924
- NH S 491
- RI H 6345 S 720
- SC H 4003 – Produce Safety Act
- TN H 1807
- VT H 904
- WA S 6319



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# COTTAGE FOODS LEGISLATION 2018

## U.S. States with Cottage Foods Legislation 2018



- **AZ S 1022** exempts baked and confectionary goods from state food safety regulations.
- **CA A 626** exempts “microenterprise home kitchens” from the retail food code
- **KY H 263** limits sales of home-based foods to consumers within the state
- **TN S 651** permits the sale of food products by the farmer directly to consumers
- **WV S 375** preempts local health departments from the farmers’ market permit process

# COTTAGE FOODS V. FOOD FREEDOM

## Cottage Food Law

- Hazardous v. Non-Hazardous Foods
- Small, 'Cottage' Food Production
- No Internet Sales
- Must be Labeled as not being Inspected

**"This product is made in a home kitchen that is not inspected by the state or local health department."**

## Food Freedom Laws

- Almost any Food may be sold, including Hazardous Foods (i.e., meat products)
- Direct between Producer and Consumer (i.e., Farmers' Markets)
- Few or no Limits on Size of Operation
- May be Labeled as **NOT** being Inspected



# COTTAGE FOODS

- Cottage food laws allow for the in-home production and manufacturing of foods and beverages
- Provides economic opportunity for entrepreneurs and local communities
- Improves access to local foods
- **48 States** have a cottage food laws/regulations
  - Hawaii and New Jersey do not
- **40 bills** introduced in 18 States in 2019
  - **3 on Food Freedom** (ME, MS, NM)

*Mark Stamble, Pagnol Boulanger Bakery and Cottage Food Advocate*



# FOOD FREEDOM LAWS

## Wyoming

- Any food except meat (under 1000 head of chicken)
- Direct-to-consumer sales only
- No sales limit, no labels required, no registration

## North Dakota

- Any food but meat, though poultry is allowed if raised on site
- Direct-to-consumer sales only
- Label only required for “potentially-hazardous foods”
- No sales limit, no registration

## Maine

- Allows municipalities to set and enforce their own regulations
- Required Special Session to amend laws to avoid losing inspection status from USDA; FDA did not respond





# FOOD FREEDOM 2019

**Maine H 583** passed Joint Ag/Conservation/Forestry; at **Governor's Desk**

Proposes a **Constitutional amendment** relating to rights to **food and food sovereignty and freedom** from hunger; declares that **all individuals have a natural, inherent, and unalienable right to food**, including the right to acquire, produce, process, prepare, preserve and consume and to barter, trade, and purchase the food of their own choosing for their own nourishment, sustenance, bodily health, and well being.

**\*\*Bill has passed both Chambers; has amendments before going to Governor's desk and State Vote**

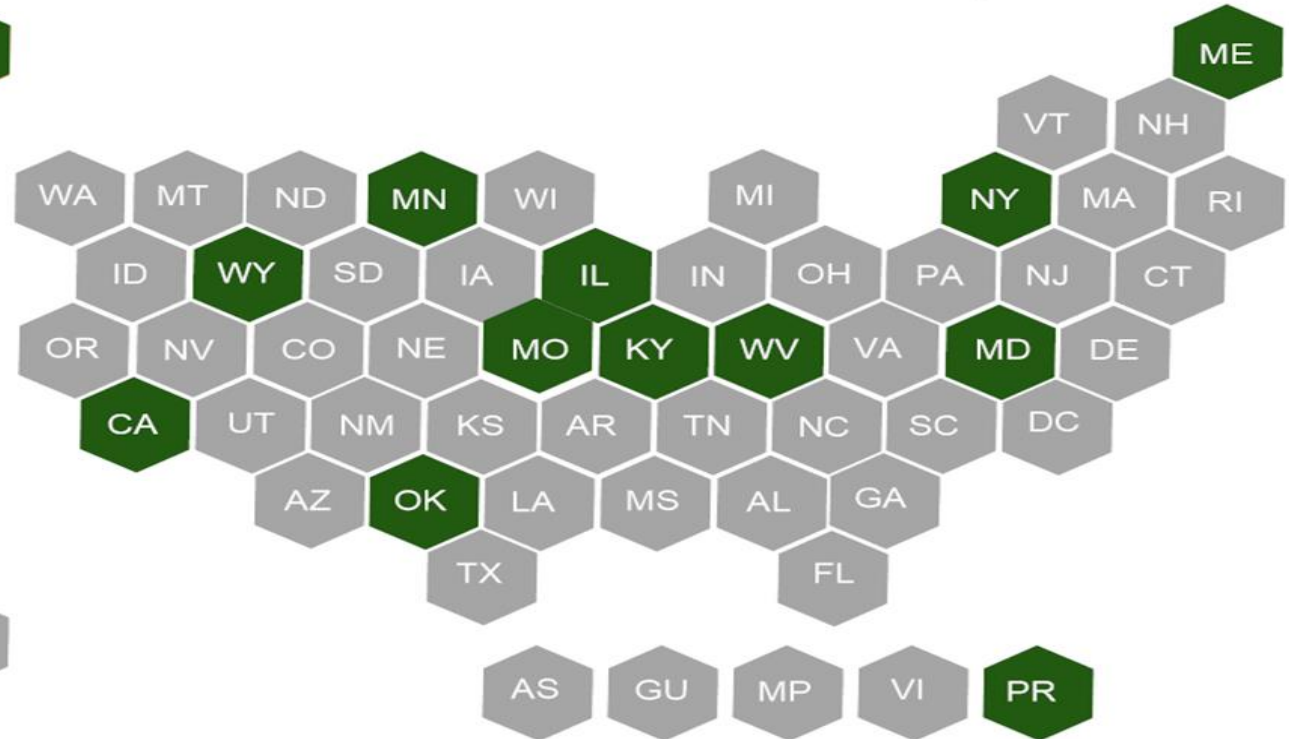


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# FOOD DONATION LEGISLATION

- **AK H 186** restaurants, hotels and stores may donate food to food banks or charitable organizations without being subject to civil or criminal liability.
- **CA S 557** allows for unused food or food returned by a consumer at schools to be donated to a food bank or other nonprofit charity
- **MD H 1054** the public can claim a tax credit for the donation of venison to charitable organizations
- **MO H 1288** provides a tax credit to those who donate food or cash to local homeless shelters
- **WV H 4478** authorizes public schools to distribute excess food to students and others who suffer from food insecurity

**U.S. States with 2018 Donations of Food Legislation**



## LOUISIANA SB 152 – ENACTED

"Far too long the issue has gone unchecked," Senator Francis Thompson said when ushering the bill through the Senate on SB 152 "Broccoli is not rice. Cell cultures are not meat. And certainly tofu burgers are not meat."





# ARKANSAS HB 1407 (CHAPTER 501) TRUTH IN LABELING OF AGRICULTURAL PRODUCTS THAT ARE EDIBLE BY HUMANS (MEAT AND RICE)

The purpose of this subchapter is to protect consumers from being misled or confused by false or misleading labeling of agricultural products that are edible by humans.

(6) Representing the agricultural product as meat or a meat product when the agricultural product is not derived from **harvested livestock, poultry, or cervids**;

(7) Representing the agricultural product as rice when the agricultural product is not rice;

(8) Representing the agricultural product as beef or a beef product when the agricultural product is not derived from a domesticated bovine;

(9) Representing the agricultural product as pork or a pork product when the agricultural product is not derived from a domesticated swine;

(10) Utilizing a term that is the same as or similar to a term that has been used or defined historically in reference to a specific agricultural product; or

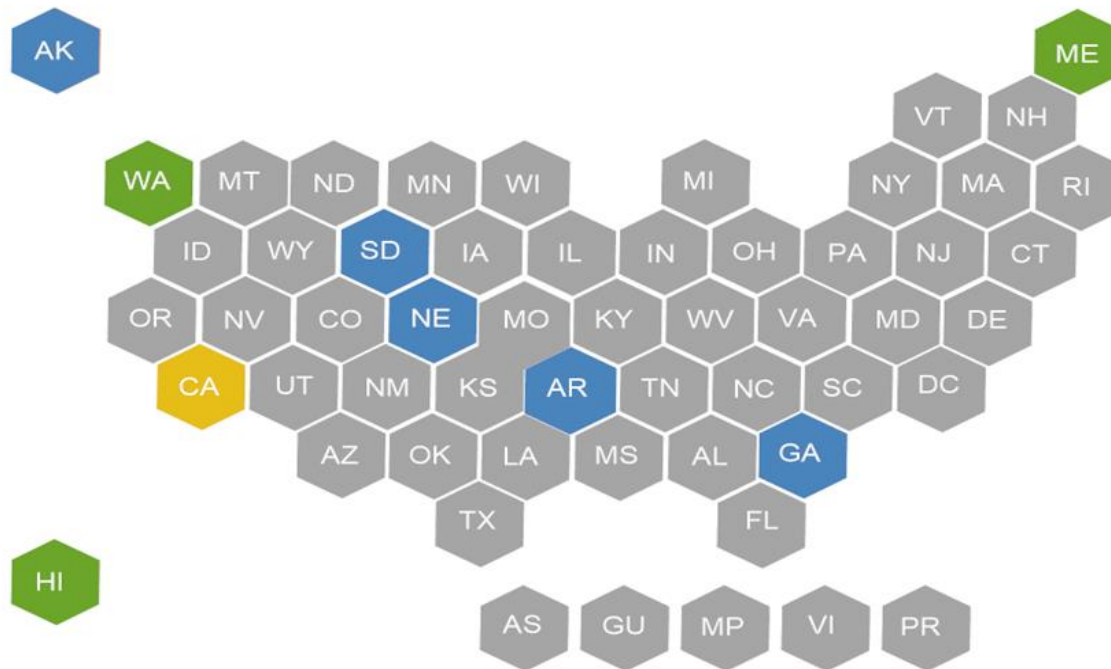
(11) Affixing a label that uses a **variation of rice** in the name of the agricultural product when the agricultural product is not rice or derived from rice.



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# FOOD LABELING ENACTED LEGISLATION

## U.S. States with Enacted 2018 Food Labeling and Edible Cannabis Legislation



	States with Enacted Food Labeling Legislation
	States with Enacted Edible Cannabis Legislation
	State with Enacted Food Labeling and Edible Cannabis Legislation

- **CA A 954** encourages food processors to use uniform terms on food product labels to communicate quality and safety dates
- **GA S 69** relates to the packaging and labeling of organic products and certifying entities
- **NE L 134** Pure Food Act includes provision on source labeling for eggs
- **SD H 1035** adopts the official definition of feed ingredients pursuant to the federal Food, Drug and Cosmetic Act

# 2019 EDIBLE HEMP/CANNABIS

## Maine Legislature



## ME H 459 Chap. 12-2019

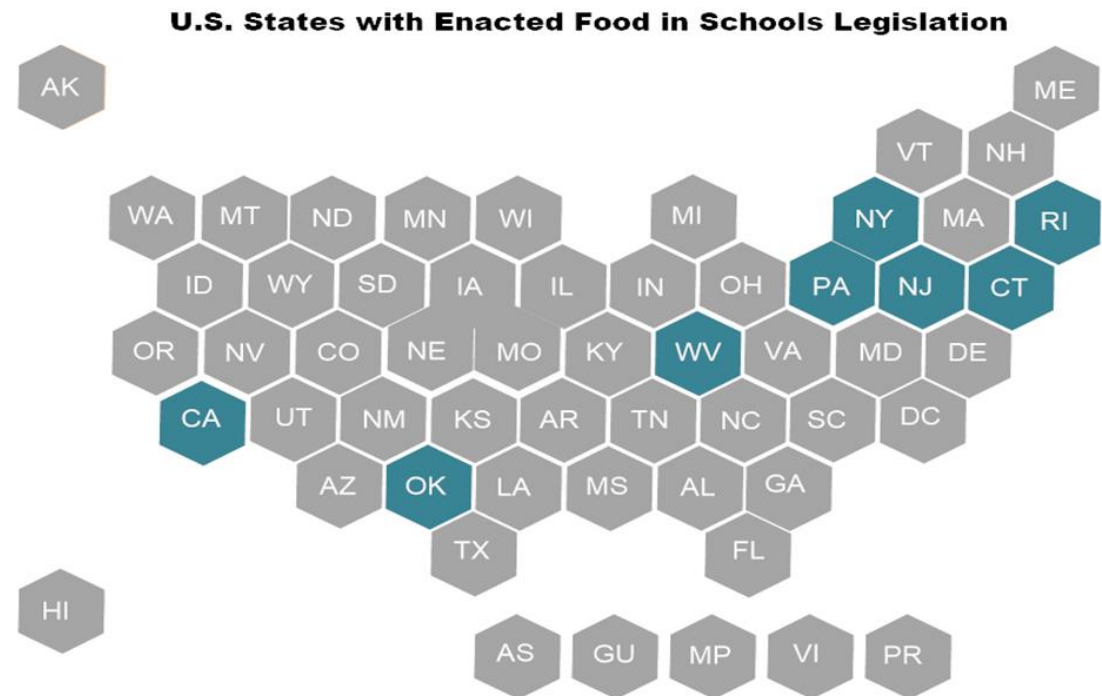
Clarifies that **food and food products** containing hemp derived cannabidiol that are produced and sold within the state **are not considered to be adulterated**; provides that the production, marketing, sale, or distribution of **food or food products containing hemp may not be restricted or prohibited**; changes references to the term of industrial hemp to hemp; defines hemp to match the definition of hemp in the federal Agriculture Improvement Act.



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# FOOD IN SCHOOLS AND EDUCATIONAL INSTITUTIONS

- **CT H 5452** offers guidelines for local school districts for the management of students with life-threatening food allergies
- **NJ S 1897** expands its summer meal program to all school districts
- **NY S 4173** requires the Department of Health to post school cafeteria and kitchen inspection reports on its website
- **PA H 178** requires schools to provide a school meal to every student who requests one, unless a parent specifically requests the school to withhold a meal
- **RI H 7419** prohibits the advertising of food and beverage products in schools that fail to meet federal nutrition standards

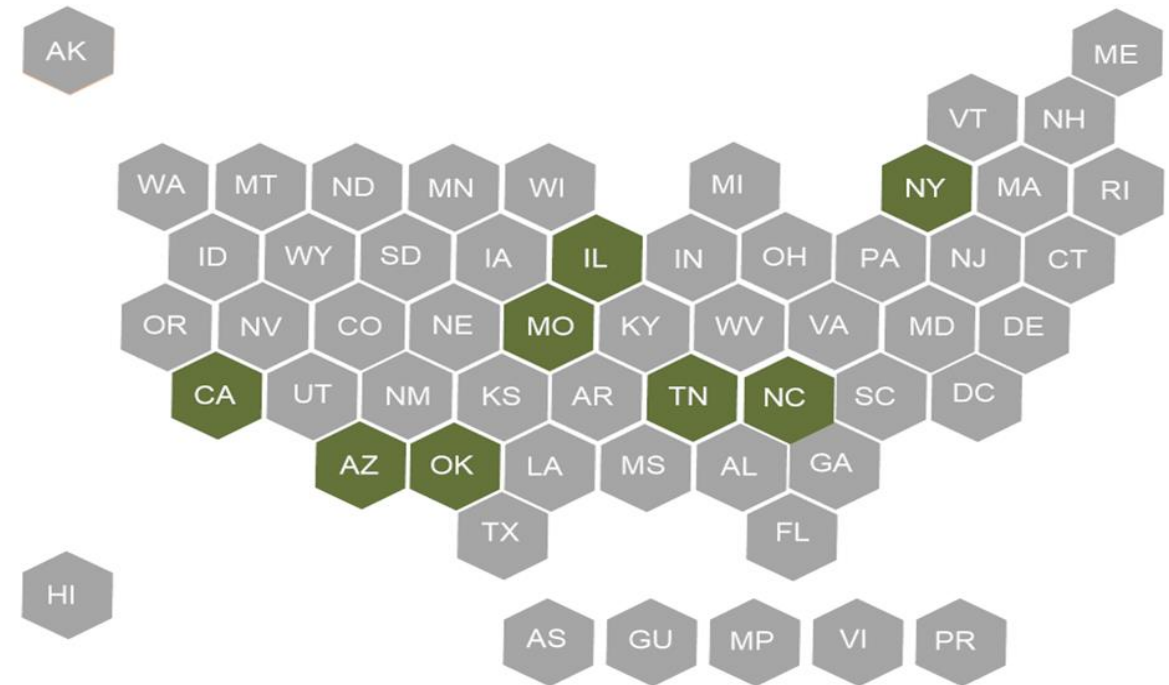




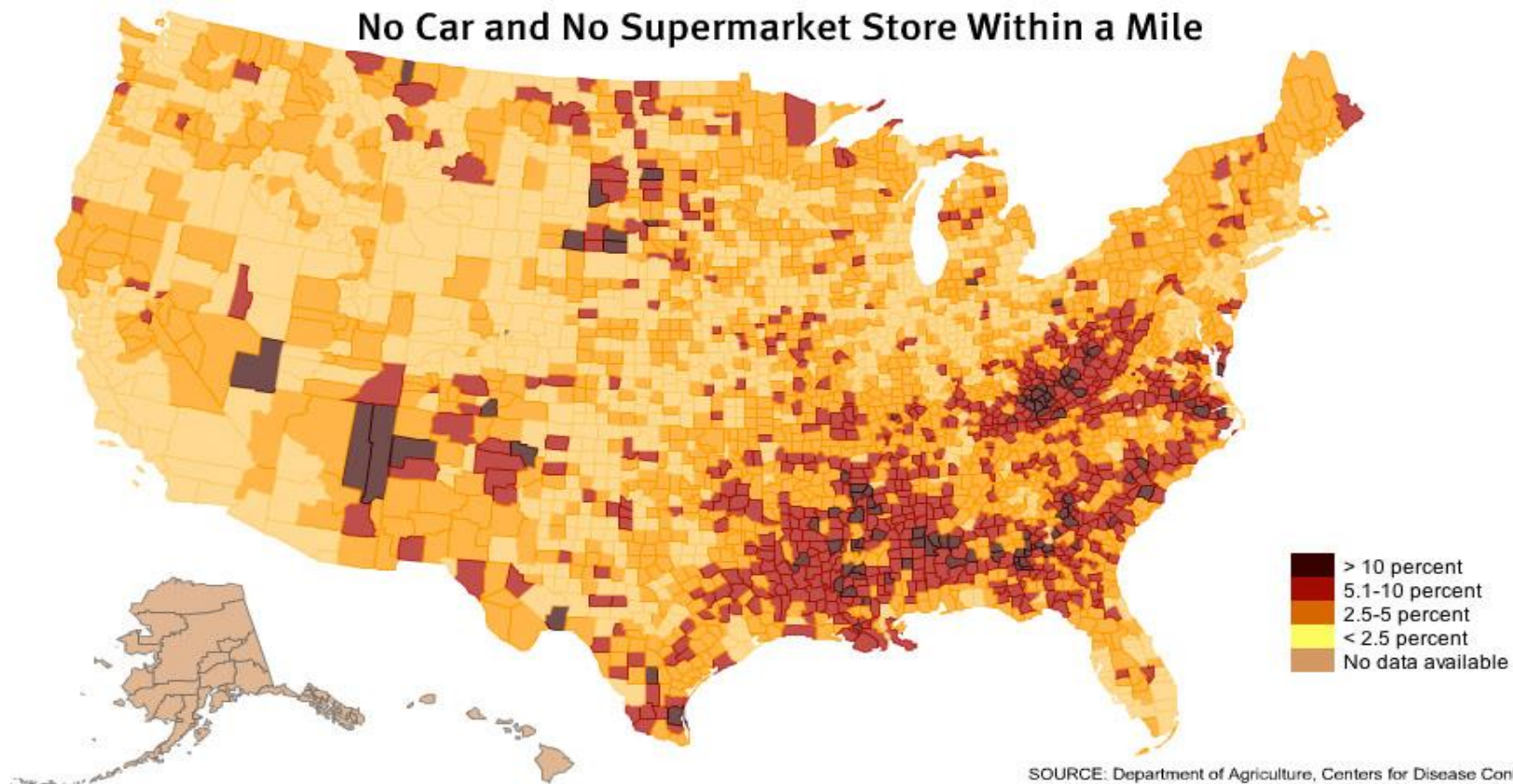
# NUTRITION AND FOOD DESERTS LEGISLATION

- **AZ S 1245** allows supplemental nutrition program (SNAP or food stamps) recipients to purchase state-grown fruits and vegetables at farmers' markets, farm stands and mobile markets
- **MO H 1625** established the Senior Farmers' Market Nutrition Program to provide low-income seniors with fresh, state-grown produce
- **NY A 379** amends the Public Health law to allow WIC vendors to sell specialty formula for infants under its SNAP program
- **NC H 357** expands the ability of qualified nutrition professionals to practice in the state and amending the dietetics/nutrition practice act.

**U.S. States with Nutrition and Food Deserts Legislation 2018**



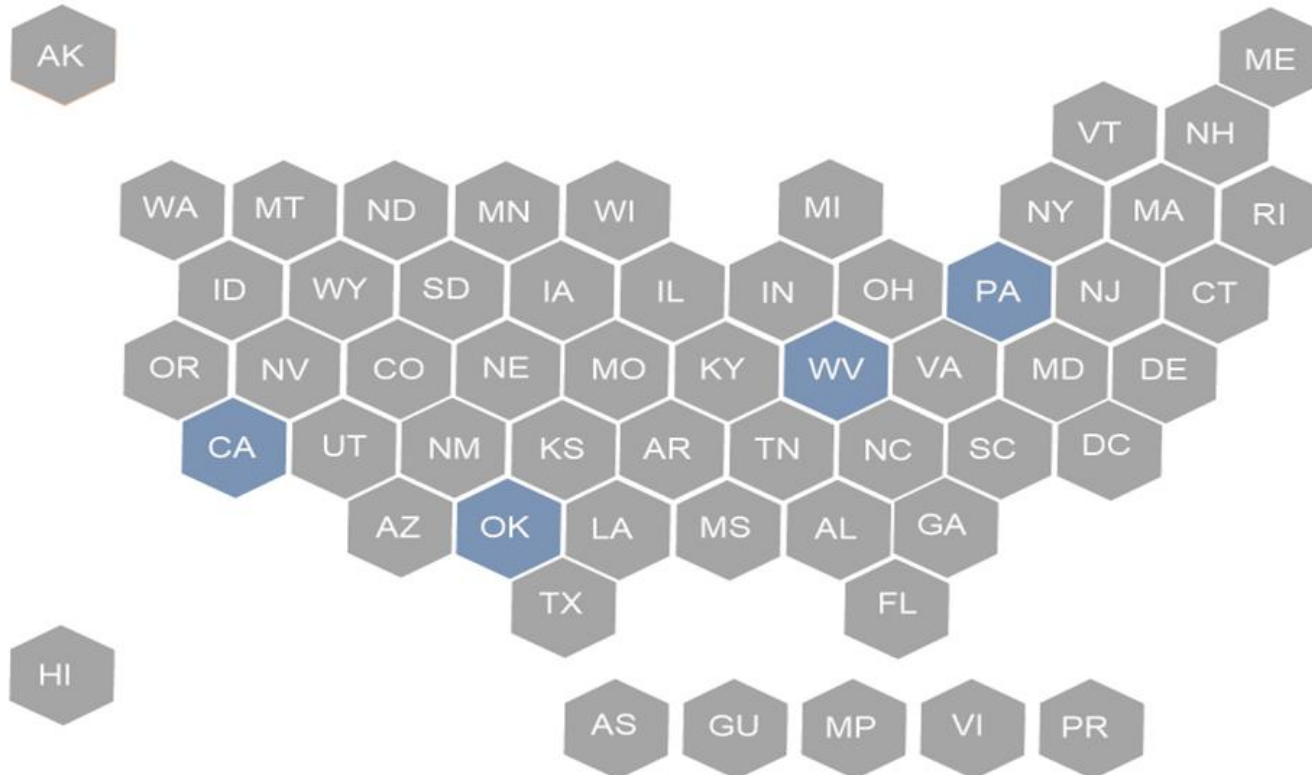
# FOOD DESERTS – ILLINOIS, OKLAHOMA, TENNESSEE



SOURCE: Department of Agriculture, Centers for Disease Control

# FOOD AS HEALTH LEGISLATION

**U.S. States with Food as Health Legislation 2018**

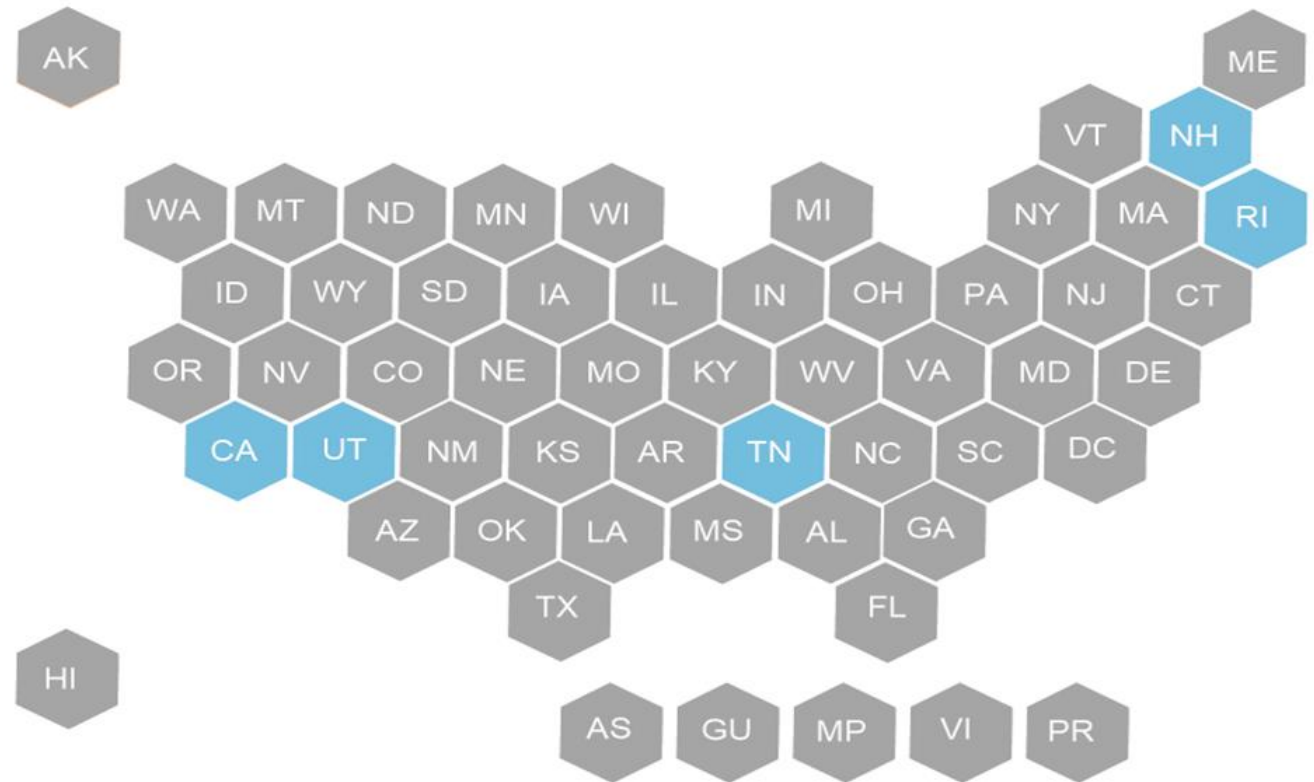


- **OK S 749** creates the Urban Gardens Grant act, allows health food to be sold at farmers' markets
- **PA HR 365** designates June as Healthy Living and Health Eating Month
- **WV S 299** requires medical insurers to cover medically necessary foods for home use when prescribed by a physician
  - Excludes persons who are lactose or soy intolerant

# MILK AND RAW MILK LEGISLATION 2018

U.S. States with Milk and Raw Milk Legislation 2018

- **CA A 691** ensures that almond milk is allowed to be sold to students in schools as non-dairy milk
- **NH S 491** requires that milk served at boarding houses be pasteurized
- **TN H 2153** provides that any milk sold in the state may be labeled as “Local Tennessee Milk”
- **UT S 108** allows the sale of raw milk from a mobile food unit and allows for the sale of raw milk free from state regulations under certain circumstances





# STATE LAWS RELATED TO RAW MILK

States that permit the sale of raw milk in retail stores

States that allow the sale of raw milk at farmers' markets, etc.

States that allow the sale of raw milk on the farm.

States that permit cow-share programs

States that only allow the sale of raw goat milk



## WEST VIRGINIA S 387 (ACT NO. 6 2016)

### Shared Animal Ownership Agreements to Consume Raw Milk

Relates to shared animal ownership agreements to consume raw milk, requires animal ownership agreement to be signed, executed and be filed with the Commissioner of Agriculture, requires the herd seller to meet the animal health requirements for milk-producing, **prohibits sale of raw milk**

Rep. Scott Cadle, sponsor of the bill, celebrated by providing fellow legislators with raw milk, many who fell ill a short time later



# FOOD SAFETY 2019

## Labeling Legislation

**CA A 479** - Establishes the School Plant-Based Food and Beverage Program

**MD H 922 Chap. 530** - Prohibits a person from stating, on a label of a food product, that the product is milk, unless the product is from a dairy cow

**NE LR 13 (adopted)** - Urges the federal agencies of the U.S. Government responsible for food labeling to establish and enforce standards for nomenclature of plant-based imitation milk and dairy food products.

NJ and PA have similar bills pending

## Labeling of Cell-based Meats

**AL 158** – cell-cultured food cannot be labeled as meat

**AR H 1407** – Requires truth in labeling of foods

**CO HR 1005** – consumers' notice of cell-based foods

**MS S 2922**

**MT H 327 (Chap. 186)**

**ND H 1400; ND HCR 3024**

**ND H 1400; ND HCR 3024**

**SC H 4245**

**SD S 68 (Chap. 181)**

**WY S 68 (Chap. 100)**



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# SLUTTY VEGAN PLANT-BASED MEATS ATLANTA



CERTIFIED #SLUTTIFIED

# ENACTED FOOD RELATED LEGISLATION 2019

- **AR H 1699** – authorizes the sale of raw sheep's milk
- **HI SR 82** – DoH to establish standards on unsanitary food handling conditions for restaurants
- **NJ A 4704** – establishes a food desert program
- **NM S 84** – authorizes the growing of fruits and vegetables at Senior Centers
- **OR S 390** – allows farm direct sales of olive oil
- **PR S 137** - investigates on the use of potassium bromate in the preparation of food in Puerto Rico
- **TX S 572** - requires cottage food production operations that sell certain products to include labels relating to food safety
- **UT H 33** - designates "produce" as adulterated if it is in violation of certain provisions of the Federal Food Safety Modernization Act
- **VA H 1404** - authorizes a Hazard Analysis and Critical Control Point plan for retail market of Snakehead fish
- **WA S 5218** - requires a regulatory authority to accept a completed and approved plan review of a mobile food unit



# FOOD SAFETY – PENDING LEGISLATION 2019

- **CA S 347** - Establishes the Sugar Sweetened Beverages Safety Warning Act
- **CA S 677 NJ A 3880** - Prohibits the use of latex gloves in food facilities and retail food establishments
- **CT H 5813** - exempts honey and maple syrup from cottage food regulations
- **FL S 352** - prohibits the possession, sale or offer to sell, purchase or offer to purchase, or distribution of shark fins and ray parts
- **HI H 463** - establishes a food safety certification training program to assist small to medium sized farms to comply with the United States Department of Agriculture Good Agricultural Practices Certification Program.
- **IL H 2060** - incorporates food allergen awareness training in the requirements to receive food service sanitation manager certification
- **MA H 3611 TX H 4256** - Requires labeling of allergens in prepared foods
- **MO H 571** - Urban Agriculture Product in Food Deserts
- **MS SCR 537** - provide constitutional protection for the legal medical use of marijuana
- **NJ A 566** - requires Department of Health (DOH) to establish uniform standards for retail food establishment health and sanitary evaluation placards
- **NJ A 4747** - Requires Medicaid coverage for pasteurized donated human breast milk
- **PA S 188** - Prohibits the administration of certain antimicrobial agents in agriculture
- **WV H 2544** – Allows locals to charge environmental fees for restaurants to cover costs of regulatory programs



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